



Nevada State Board of Medical Examiners

*** * * MINUTES * * ***

OPEN SESSION BOARD MEETING

**Held in the Conference Room of the
Nevada State Board of Medical Examiners**

1105 Terminal Way, Suite 301, Reno, NV 89502

videoconferenced to

the Nevada State Board of Dental Examiners

2295 B Renaissance Drive, Las Vegas, NV 89119

FRIDAY, SEPTEMBER 10, 2004 – 8:30 a.m.

and

SATURDAY, SEPTEMBER 11, 2004 - 8:30 a.m.

Board Members Present

Stephen K. Montoya, M.D., President

Joel N. Lubritz, M.D., Vice President

Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer

Marlene J. Kirch

Sohail U. Anjum, M.D.

Javaid Anwar, M.D.

Charles N. Held, M.D.

Jean Stoess, M.A.

Board Members Absent

Cheryl A. Hug-English, M.D.

Staff Present

Drennan A. Clark, J.D., Executive Secretary/Special Counsel

Laurie L. Munson, Deputy Executive Secretary/

Information Systems Administrator/Chief of Administration

Stephen D. Quinn, General Counsel

Edward O. Cousineau, Deputy General Counsel

Lynnette L. Krotke, Chief of Licensing

Douglas C. Cooper, Chief of Investigations

Trent S. Hiatt, Investigator (present in Las Vegas)

Also Present

Charlotte M. Bible, J.D., Chief Deputy Attorney General

Peter Mansky, M.D., Executive Director, Nevada Health Professionals Assistance Foundation

Roger Belcourt, M.D., Nevada Health Professionals Assistance Foundation

Bradley J. Thompson, M.D., Nevada Health Professionals Assistance Foundation (in Las Vegas)

John B. Lanzillotta, P.A.-C, Physician Assistant Advisory Committee Member (in Las Vegas)

Michael J. Garcia, R.R.T., Practitioner of Respiratory Care Advisory Committee

Member (in Las Vegas)

Steven E. Kessinger, C.R.T., Practitioner of Respiratory Care Advisory Committee Member

FRIDAY, SEPTEMBER 10, 2004

Agenda Item 1

CALL TO ORDER AND ANNOUNCEMENTS – Stephen K. Montoya, M.D., President

The meeting was called to order by Stephen K. Montoya, M.D., President, at 8:30 a.m.

Dr. Montoya welcomed new Board members Charles N. Held, M.D. and Jean Stoess, M.A. to the Board.

Dr. Held gave a history of his professional background, followed by Ms. Stoess, Mrs. Kirch, Dr. Anwar, Mr. Quinn, Dr. Montoya, Ms. Bible, Dr. Lubritz, Mr. Cousineau, Dr. Baepler, Dr. Anjum, Mr. Clark, Mr. Cooper and Ms. Munson.

Agenda Item 3

PERSONNEL

Open Session

- Introduction of New Board Staff

Mr. Cooper introduced the Board's new Investigators, Heather I. Higgins and Terri L. Ward, to the Board, and each provided a brief history of her education and professional background. Mr. Cooper then introduced Pamela J. Castagnola, Lead Investigator, to the new Board members.

Agenda Item 2

APPROVAL OF MINUTES

- May 17, 2004 Emergency Telephone Conference Call Board Meeting – Open Session
- June 4 & 5, 2004 Board Meeting – Open/Closed Sessions

Mrs. Kirch moved to approve the minutes of the May 17, 2004 Emergency Telephone Conference Call Board Meeting – Open Session, and the Minutes of the June 4 & 5, 2004 Board Meeting - Open/Closed Sessions. Dr. Anwar seconded the motion, and it passed, with Ms. Stoess abstaining from the vote and the Chair voting in favor of the motion.

Agenda Item 4

CONSIDERATION AND APPROVAL OF 2003-2004 AUDIT BY SOLARI & STURMER

- Representative(s) of Solari & Sturmer

Dr. Baepler stated he had reviewed the audit, it contained no surprises, and he is pleased with it. The audit did point out that the Board's revenues are not quite keeping up with expenses, in that the Board is using up some of its reserves, but that was the intent when the Board lowered the licensing fees. This is something he will review for possible action by the Board at the December meeting, but he feels the Board's reserves are adequate for an operation of its size.

Dr. Montoya stated the recommendations made by the auditors will be implemented within the next few months, and there is nothing difficult to implement. He then thanked the auditors for their efforts and suggestions.

Motion by Dr. Baepler to approve the audit. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 5

COMMITTEE REPORT ON BOARD'S PUBLIC SERVICE ANNOUNCEMENT PROGRAM

- Stephen K. Montoya, M.D., President; Marlene J. Kirch, Board Member; Drennan A. Clark, J.D., Executive Secretary/Special Counsel

Dr. Montoya explained that the new advertising spots will include some of the Board members and the message will be that the Board is here to help its licensees and the public. The Nevada Broadcasters Association will be filming sometime during the next quarter.

Agenda Item 6

NEVADA BROADCASTERS ASSOCIATION REPORT ON STATUS OF THE BOARD'S PUBLIC SERVICE ANNOUNCEMENT PROGRAM

- Robert D. Fisher, President and CEO - Nevada Broadcasters Association

Mr. Clark told the Board that the State Board of Examiners approved the one-year contract with the Nevada Broadcasters Association. Nevada Broadcasters has asked three television stations in Las Vegas for studio time to film the new commercials, and hopefully all or most of the Board members can be present to participate. The radio ads should be on within the next two weeks and the television ads before the middle of October.

Dr. Montoya stated this is one of the Board's efforts to take care of its public relations responsibilities. He is also attending Clark County Medical Society meetings and some of the Nevada State Medical Associations meetings to represent the Board, and Tony is getting out to some places also.

Agenda Item 9

DISCUSSION, CONSIDERATION AND APPROVAL OF SETTLEMENT AND WRITTEN SETTLEMENT AGREEMENT IN NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. RICHARD L. WAGNER, M.D., BOARD CASE NO. 04-5061-1

- Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairman, Investigative Committee A

Dr. Baepler stated he believes the settlement reaches the objectives of the Investigative Committee. Dr. Wagner would reimburse the Board \$1,089 for expenses incurred in the investigation and prosecution of the case and would accept a disciplinary action of a public reprimand. This is a disciplinary action involving record-keeping and the penalty imposed by the Board should it go to hearing would probably be the same, so this saves the additional time and expense of conducting a hearing.

Dr. Lubritz added the surgical procedure was not wrong, but other matters in the case necessitated a sanction.

Motion by Mrs. Kirch to approve the settlement agreement. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 10

DISCUSSION AND APPROVAL OF LEGISLATIVE INITIATIVES FOR 2005 LEGISLATIVE SESSION AND DISCUSSION AND APPROVAL OF RECOMMENDATIONS OF FSMB AUDIT REQUIRING LEGISLATION

- Drennan A. Clark, J.D., Executive Secretary/Special Counsel

Dr. Baepler suggested that in the interest of saving time and streamlining the process, the Executive Committee review the list of initiatives and select those the Board should pursue and present them to the Board at the December meeting for full approval.

Dr. Montoya stated he would like to know if any Board members had objections to any of the initiatives and that he would take them in order.

Dr. Baepler stated the first initiative was due to a legislative change in the last session, which was a mistake, and this is one the Board should introduce to return it to its original state.

Dr. Montoya asked if there were any objections to this initiative, and none were voiced.

Dr. Baepler stated that in his opinion, the second and third initiatives are demeaning to the profession; that it is demeaning to ask prospective physicians to be fingerprinted and to run a criminal background check on them, when they have already been screened over and over throughout their education, etc. The Board has to create an environment that will attract physicians to the state and he does not see a reason to implement those initiatives, as there has never been a case where the Board has granted a license and then regretted it because it discovered a licensee had a criminal record.

Mr. Clark stated that 17 other states require fingerprinting and a criminal background check, and that the Nevada State Board of Osteopathic Medicine went to the Legislature during the last session for legislation allowing FBI fingerprinting of all Osteopaths.

Dr. Lubritz, Dr. Montoya, Dr. Anjum and Dr. Held all voiced the opinion that it is demeaning to ask every physician who applies in Nevada to undergo a criminal background check. Ms. Stoess stated she was in favor of it and Mrs. Kirch stated she didn't know if it would be demeaning as she has been through that kind of check as a banker and it wasn't a big deal. Dr. Anwar stated he felt it was unnecessary.

Motion by Dr. Baepler not to proceed with initiatives two and three. Dr. Held seconded the motion, and it passed, with Mrs. Kirch and Ms. Stoess opposed and the Chair voting in favor of the motion.

Dr. Montoya stated that the fourth initiative would require H.M.D.s to be licensed in the state of Nevada as an M.D. or a D.O. prior to receiving their H.M.D. license in the state.

Mr. Clark explained that currently the only statutory requirement for H.M.D.s is that they at one time had an M.D. or D.O. license in some state, not that it be current or that it be in Nevada, and there have been situations where dual-licensed H.M.D./M.D.s have come before the Board on a complain and stated they were only practicing in their H.M.D. capacity, not in their M.D. capacity. This initiative would better protect the public, and ensure currency, by giving the Medical Board or Osteopathic Board jurisdiction over H.M.D.s. by requiring them to be licensed as an M.D. or a D.O. in the state of Nevada.

Dr. Montoya agreed that if they had Nevada licenses, the Board would be able to discipline them for violations of the Medical Practice Act.

After further discussion, Dr. Montoya stated the consensus of the Board is to pursue the fourth initiative.

Dr. Montoya stated that the fifth initiative provides that the Investigative Committee could issue warnings to concerning non-punitive admonishment to licensees the Committee believes had violated, is violating, or is about to violate a provision of Chapter 630, and it is something he has wanted since he began with the Board.

Dr. Baepler stated the Investigative Committee used to send private letters of concern to licensees pointing out conduct of the licensee they were concerned with, but stating they were not going to pursue disciplinary action. It was later ruled impermissible under the statutes, which is arguable, but on the advice of counsel, the practice was discontinued.

Mr. Clark explained that during the last legislative session, the Board was given authority to send letters of concern. Under the statute, the Board is the only entity that can send the letter, not the Investigative Committees. The purpose of this initiative is to clarify the authority for the Investigative Committees to send private letters of concern.

Discussion ensued concerning the manner in which the letters of concern could be issued and the authority to do so. Ms. Bible stated that there has been a request for an Attorney General Opinion on this issue, which is still in the review stage, and the concern is that the statute provides that the Board shall issue the letter and in other provisions in the statute it provides explicit authority for the Investigative Committee to do certain things, which indicates an intent in the statute that there are distinct duties of the Board and of the Investigative Committees. However, if it is determined that issuing letters of concern is within the investigative realm of the Investigative Committee, it should be covered under current statutes which say that all investigative files are confidential until a formal complaint is filed, and in that respect it could remain a confidential document.

Dr. Lubritz stated the ability of the Investigative Committees to send private letters of concern is a valuable tool and if the statute as currently written can be interpreted that the Investigative Committees have that authority, he would hate to lose that by asking the Legislature for clarification. Dr. Anjum agreed.

After further discussion concerning the pending Attorney General Opinion and whether the Board should request clarification, Dr. Montoya stated the consensus was for the Board to pursue the fifth initiative.

With respect to the sixth initiative, Dr. Anwar stated the primary function of a medical dental screening panel is to act as a triage body and the former panel did not serve that function, so unless the panel will serve a meaningful purpose, it should not be recreated.

Dr. Montoya stated he would like to see the medical screening panel recreated, preferably with some teeth, and Dr. Lubritz, Dr. Anjum, Dr. Held, Ms. Stoess and Mrs. Kirch concurred. Dr. Baepler suggested the new panel could be given a budget for investigative and

administrative staff. Dr. Montoya stated the consensus of the Board was to go forward with the sixth initiative.

Mr. Clark suggested the Board not consider the seventh initiative at this time, as staff is working on a new brochure, which will be brought to the Board for review at the December meeting.

Dr. Montoya stated the eighth initiative would require physicians to display written notice in their offices informing patients of the right to a copy of their medical records at a reasonable copying cost, and that regulations allow the Board to discipline a physician who fails to display the notice or provide copies to the patient. There is already a law that requires physicians to inform patients of their right to a copy of their medical records and to provide them with a copy of their records if requested.

Dr. Baepler stated he did not see an urgent need for this, as the Board receives very few complaints from people who have not been able to obtain their medical records.

Ms. Bible stated the Board already has a provision for disciplinary action for failing to produce medical records.

Dr. Montoya stated the consensus of the Board was not to go forward with the eighth initiative.

Dr. Montoya stated the ninth initiative would require physicians to take continuing medical education in pain management and end-of-life care.

Dr. Anwar asked whether this was something that requires legislation or something the Board could accomplish on its own.

Mr. Clark told the Board that the office had received missives against this initiative from Dr. Weldon Havins and from an Anesthesiology group.

Dr. Havins of the Clark County Medical Society stated he also sent the Board e-mails he received from Dr. Max Doubrava and Bob Shreck, and that his opinion is that the Board could add this requirement by regulation but it would be unnecessary and imprudent to put it into statute.

Larry Matheis of the Nevada State Medical Association stated the only time the Legislature has specifically mandated continuing medical education was in AB 250, concerning bioterrorism. He said the Board has traditionally taken the position that rather than specifying particular continuing medical education, it be left to the individual physicians to determine, which he thinks has been a wise policy.

Ms. Bible stated the continuing medical education requirements are set forth by regulation under NAC 630.153, so the Board could just add to that if it wanted to go forward with it.

Agenda Item 7

REQUEST FOR APPROVAL TO PRACTICE OUTSIDE OF THE UNIVERSITY OF NEVADA SCHOOL OF MEDICINE'S FAMILY PRACTICE RESIDENCY PROGRAM, PER NRS 630.265(4)

- Robert Rand, M.D., License No. LL1319
- Karen Selbach, Program Secretary, Family Practice Residency, Reno

Dr. Rand explained to the Board his intention to moonlight probably one weekend shift per month in some of the rural northern California emergency rooms, applying the skills he has learned in his residency program. He has his California license. The director of his residency program and the department chairman have given him the green light to proceed.

Dr. Montoya asked Family Practice Residency Program Secretary Karen Selbach how residents are monitored while moonlighting. She explained that the residents are required to turn in a time sheet and check with the residency director to confirm where they are working and to ensure it does not interfere with their required rotation.

Dr. Baepler stated the policy of the Board that prohibits moonlighting was at the request of the medical school, and the medical school now seems to be shifting its position.

Motion by Dr. Baepler to allow Dr. Rand to moonlight in California as proposed, with a request that the medical school re-examine its policy concerning moonlighting and come to the Board with a recommendation whether they want to retain the current policy or amend it. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 8

DISCUSSION, CONSIDERATION AND APPROVAL OF SETTLEMENT AND WRITTEN SETTLEMENT AGREEMENT, INCLUDING BRIEF APPEARANCE BY DR. GIARRUSSO AND/OR COUNSEL, IN NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KAREN A. GIARRUSSO, M.D., BOARD CASE NO. 04-10526-1

- Stephen D. Quinn, J.D., General Counsel

Karen A. Giarrusso, M.D. appeared before the Board with her counsel, Anthony Sgro. Mr. Sgro stated that from their perspective, they are here to conclude the settlement agreement Dr. Giarrusso entered into, executed and has been lived by since May of this year, and as a result of this conclusion, the restrictions on Dr. Giarrusso's license should be lifted. Additionally, there is now an issue with the website information on Dr. Giarrusso, which they have not been able to correct. Mr. Sgro gave a Powerpoint presentation to the Board outlining Dr. Giarrusso's position with respect to the allegations against her and the events surrounding the complaint filed against her.

Dr. Giarrusso stated she had been proactive in trying to resolve the matter with the Board prior to the filing of the complaint against her, and that she had not been avoiding or ignoring the Board.

Dr. Montoya asked Dr. Giarrusso what she wanted from the Board at this point, and she stated she would like all false information concerning her expunged from the website and the National Practitioner Database.

Discussion ensued concerning the settlement agreement, the amended settlement agreement, and the urine sample that Dr. Giarrusso refused to give which gave rise to the complaint filed in this matter.

Counsel for the Board and counsel for Dr. Giarrusso then engaged in discussion concerning the status of the original settlement agreement.

Discussion returned to the amended settlement agreement and the changes therein from the original.

The matter was then tabled pending additional information from the parties.

Agenda Item 14

REPORTS

- Diversion Program - *Quarterly Report* - Peter Mansky, M.D., Medical Director
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, and Dan Hickey, P.A.-C,
Advisory Committee Members
- Practitioner of Respiratory Care Advisory Committee - Steven E. Kessinger, C.R.T., Advisory Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson
Joel N. Lubritz, M.D., Chairperson
 - Consideration of Cases Recommended for Closure by the Committees
 - Status of Investigative Case Load
- Nevada State Medical Association Liaison Report - Stephen K. Montoya, M.D.
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
 - Consideration of Approval of Final Budget for Fiscal Year 2004 – 2005
 - Status of Finances
- **Diversion Program: *Quarterly Report* – Peter Mansky, M.D., Medical Director, Nevada Health Professionals Assistance Foundation**

Peter Mansky, M.D. distributed a report to Board members. He told the Board that until he is licensed, he is the Executive Director and Brad Thompson will remain Medical Director of the Foundation. Once he is licensed, Dr. Mansky will become the Medical Director. Roger Belcourt is the incoming President and Tim Coughlin will be the immediate past President. Dr. Jerry Cade will be their Vice President, Arne Rosencrantz their Secretary, and Dr. Jerry Jackson their Treasurer. He told the Board what attracted him most to the Nevada program is the strong network of physicians helping physicians. He outlined the structure of the program and stated their goals are to eventually increase their funding and resource development, and if the Board is in agreement they would like to develop an office with a support staff and develop a policy and procedure manual with standards that will be helpful in dealing with individual physicians, the Board and the legal community.

Dr. Montoya thanked Dr. Mansky for coming and thanked Dr. Thompson for all of his hard work.

Dr. Lubritz asked for future reference whether it was generally accepted or not accepted that when a physician refuses to give a sample he/she is guilty until proven innocent, and discussion ensued concerning the procedure for collection of specimens.

- Physician Assistant Advisory Committee – John B. Lanzillotta, P.A.-C;

John B. Lanzillotta, P.A.-C addressed the fourteenth initiative on the list of proposed legislative initiatives before the Board, and stated that he is requesting an additional change to NRS 440.380 to add physician assistants to the list of those who can sign death certificates if delegated authority to do so by a physician.

Dr. Montoya stated that seeing no objections from Board members, the Board will advocate for the addition.

Dr. Baepler asked for clarification as to whether the Physician Assistant Advisory Committee was asking the Board to propose these initiatives or merely support them if someone else proposes them, and Mr. Lanzillotta stated they were asking the Board to get the bills drafted.

Mr. Lanzillotta then informed the Board that Physician Assistant Advisory Committee member Nancy Munoz has advised him she would be resigning from the Committee. He asked the Board to allow he and Physician Assistant Advisory Committee member Dan Hickey to screen an applicant for the Board's approval at the December meeting. Dr. Montoya said that would be acceptable.

- Practitioner of Respiratory Care Advisory Committee – Steven E. Kessinger, C.R.T.

Steven E. Kessinger, C.R.T. asked the Board if temporary licenses could be issued to respiratory care practitioners who want to work in Nevada on a temporary basis, similar to those issued to physicians.

Ms. Krotke explained that when a physician applies for a temporary, or locum tenens license, he or she goes through basically the same process as for obtaining an unrestricted license to practice. She doesn't know how to make the process any quicker for practitioners of respiratory care to get license, but suggested if a practitioner of respiratory care has in inkling he or she wants to work in the state, he or she should start the process as soon as possible.

Mr. Kessinger then asked what could be done to assist individuals who have passed the national board exam and are awaiting the report from the National Board of Respiratory Care, who can no longer work as a student, since they have passed the exam, but also cannot practice as an RCP because they have no proof they have passed the exam.

Mrs. Krotke stated that as far as the Board is concerned, those individuals are considered interns until the Board receives notification of the passage of the test, and can continue to work under the constraints of an intern until they are transitioned into a full license.

Mr. Kessinger then asked if the Board will be discussing the possibility of lowering the fees for licensing of practitioners of respiratory care.

Dr. Baepler stated the Board would be meeting in December to analyze the fee structure for the upcoming biennium.

Mr. Kessinger described the situation with respiratory therapists who work in facilities where they draw arterial blood gasses and analyze them and are required to obtain a separate license for that work from the State Board of Health. Since the current practice act allows respiratory therapists to draw blood for any type of analysis, they believe that work should be covered under their licensure with the Nevada State Board of Medical Examiners and they should not be required to obtain a separate license, at an additional cost.

Michael J. Garcia, R.R.T., stated the Advisory Committee is asking the Board not only to support the respiratory therapists in this request, but also to propose it in the Legislature.

Mr. Kessinger requested authorization from the Board to increase the number of Advisory Committee members from three to five. Mr. Garcia stated the Nevada Administrative Code would have to be amended to allow it. Dr. Montoya stated the Board would support that.

**INVESTIGATIVE COMMITTEES – Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer,
Chairperson
Joel N. Lubritz, M.D., Chairperson**

- Consideration of Cases Recommended for Closure by the Committees
- Status of Investigative Case Load

- Consideration of Cases Recommended for Closure by Committees

Dr. Baepler reported that Investigative Committee A considered 82 cases, authorized filing formal complaints in 4 cases, appearances were requested in 4 cases, 5 cases were referred out for peer review, 4 cases were referred back to investigative staff for further investigation and 65 cases were recommended for closure.

Mr. Cooper explained how cases are assigned to the Investigative Committees and stated they would attempt to bring all complaints against the same licensee before the same Investigative Committee. He reported the current Investigations caseload at 542 open cases, with 109 statewide civil court filings for malpractice not yet opened. With the addition of two Investigators, the caseload per Investigator is now 77. Currently, one in every six cases goes to peer review.

Dr. Lubritz reported that Investigative Committee B considered 67 cases, authorized filing formal complaints in 7 cases, 1 case was sent out for peer review, appearances were requested in 4 cases, 4 cases were referred back to investigative staff for investigation and 51 cases were recommended for closure.

Discussion ensued concerning peer reviews.

**- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
- Consideration of Approval of Final Budget for Fiscal Year 2004-2005**

Dr. Baepler stated that it is very difficult to show a budget for revenues and expenditures balance because the Board is on a biennial licensing cycle and money is collected from licensees every two years. So one year there will be a lot of revenue and a surplus at the end of the year and the next year when there is only revenue from new applicants there will be a large deficit, which is made up by the surplus revenue from the previous year. In December the

biennial budget will be presented which shows a pattern of projected revenue and expenditures for two years and that is a more meaningful document. But currently the Board is being asked to consider the annual budget for fiscal year 2004-2005.

Mrs. Kirch moved that the Board approve the budget as presented. Dr. Held seconded the motion and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 8 **(CONTINUED)**

DISCUSSION, CONSIDERATION AND APPROVAL OF SETTLEMENT AND WRITTEN SETTLEMENT AGREEMENT, INCLUDING BRIEF APPEARANCE BY DR. GIARRUSSO AND/OR COUNSEL, IN NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KAREN A. GIARRUSSO, M.D., BOARD CASE NO. 04-10526-1

- Stephen D. Quinn, J.D., General Counsel

Dr. Montoya stated that legal counsel for the Board and Dr. Giarrusso were able to reach a settlement outside while the Board was in session, and therefore he would like to reconsider what was tabled earlier.

Ms. Bible stated that what Dr. Giarrusso wants is for the detailed information concerning the complaint that is currently on the Board's website be deleted and what would be left on the website is that a complaint was filed, a settlement reached, the complaint was dismissed, the suspension rescinded and lifted, and the license reinstated. Additionally, on the page of the website that lists disciplinary actions, it sets forth that a complaint was filed and a suspension issued, and she would like her name removed from that section. Dr. Giarrusso also wants her name removed from the National Practitioner Databank and the only way to do so would be for the Board to say they entered it by mistake, and Ms. Bible told them she couldn't recommend that to the Board, so they agreed that the Board would report to the National Practitioner Databank that a settlement agreement was entered, the complaint dismissed, the suspension was lifted and the license reinstated, and if there is now a condition on her license, a description of the condition. Lastly, there is the issue of how the Board handles the condition that she was to have random drug tests for a period of 60 to 90 days, no later than September 28, which she apparently submitted to.

Discussion ensued concerning the details of drafting the settlement documents and obtaining the Board's approval of it. Ms. Bible and Mr. Sgro agreed to prepare a new settlement agreement and bring it back to the Board after the lunch break.

RECESS

Dr. Montoya recessed the meeting for lunch at 12:30 p.m.

RECONVENE

Dr. Montoya reconvened the meeting at 1:15 p.m.

Agenda Item 11

CONSIDERATION OF INCREASING JURISDICTION OF LICENSE APPLICATION AND MALPRACTICE REVIEW COMMITTEE

- Stephen K. Montoya, M.D., President

Dr. Montoya stated the License Application and Malpractice Review Committee is currently considering applicants who have had malpractice claims of \$200,000 or less against them, and he would like to see the amount raised to at least double that in order to lessen the load on the full Board.

Dr. Anjum suggested that rather than putting a limit on the amount of money, the Board could adjust the parameter of cases that are seen by the Committee.

Discussion ensued concerning how the Board could increase the number of cases seen by the Committee.

Motion by Dr. Lubritz to raise the jurisdictional limits for the License Application and Malpractice Review Committee to \$500,000. Dr. Baepler seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 12

AMENDMENTS TO NEVADA ADMINISTRATIVE CODE CHAPTER 630

- Stephen D. Quinn, J.D., General Counsel; Edward O. Cousineau, Deputy General Counsel
 - Consideration of Amendment to NAC 630.080, Concerning the Number of Times an Applicant Can Take the USMLE to Pass and How Many Years an Applicant Has to Pass All Three Steps
 - Consideration of Amendment to NAC 630.154, Concerning Continuing Education Relating to Bioterrorism and Weapons of Mass Destruction
 - Approval of Update to *Model Guidelines for the Use of Controlled Substances for the Treatment of Pain*, published by the Federation of State Medical Boards of the United States, Inc. (NAC 630.187)
- **Consideration of Amendment to NAC 630.154, Concerning Continuing Education Relating to Bioterrorism and Weapons of Mass Destruction**

Mr. Cousineau stated he had received an e-mail from Dr. Greg Juhl requesting information concerning the bioterrorism/weapons of mass destruction continuing medical education requirement, and he has received other inquiries as well. His response to Dr. Juhl was to assist him with the Nevada Administrative Code and explained there is not a lot of "wiggle room" to deviate from the specified types of training that meet the requirement. Dr. Juhl asked Mr. Cousineau if he would request that the Board contemplate possible expansion of the parameters to meet the CME requirement. Additionally, Dr. Juhl wants to know if a letter from a residency director stating that he attended "X" hours of this training would be sufficient to meet the requirements.

Mr. Clark pointed out that the statute specifically sets forth the requirements, which the Board then adopted into the regulation, and while the Board can amend its regulations, the regulations still must comply with the statutory direction.

Larry Matheis suggested it would be possible for the Board to add a number "3" to the list of acceptable training that would fulfill the requirement.

Discussion ensued concerning how the regulation could be amended to allow for alternate training which would comply with the statutory requirements.

Dr. Montoya stated he would leave the language to the attorneys, but it would have to be approved.

- Consideration of Amendment to NAC 630.080, Concerning the Number of Times an Applicant Can Take the USMLE to Pass and How Many Years an Applicant has to Pass All Three Steps

Mr. Clark stated that at the last meeting there were a number of applicants for resident licenses who took the USMLE several times over several years before passing, one of whom took the USMLE 19 times over a period of 15 years before passing, and Dr. Hug-English suggested that the Board revisit the regulation concerning the requirements for passage of the USMLE. Following that meeting he sent the Board a list of what other states are doing on this issue, and the majority of them indicate they require all three steps passed in five attempts within seven years; ten years if an applicant is concurrently working toward his or her Ph.D. He is now asking the Board if they want to revisit the regulation to re-impose a time limit and also a limit on the number of times an applicant can sit for the examination.

Discussion ensued concerning whether to impose a limit on the number of attempts and the number of years within which all steps must be passed, and the fairness of the numbers.

Dr. Lubritz moved that NAC 630.080 be amended to include the provision that all three steps of the USMLE must be passed in five attempts within seven years, or five attempts in ten years if the applicant is concurrently in a Ph.D. program. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Approval of Update to *Model Guidelines for the Use of Controlled Substances for the Treatment of Pain*, published by the Federation of State Medical Boards of the United States, Inc. (NAC 630.187)

Dr. Baepler moved that the Board approve the updates to the Model Guidelines for pain management. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 19

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

Dr. Baepler moved to go into Closed Session to discuss the character and professional competence of applicants for licensure approval. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

CLOSED SESSION

19(a) Jacob Manjooran, M.D.

Upon returning to Open Session, Dr. Baepler moved that the Board approve Jacob Manjooran, M.D.'s application for licensure. Dr. Anjum seconded the motion, and it passed, with Mrs. Kirch opposed and the Chair voting in favor of the motion.

Agenda Item 8 (CONTINUED)

DISCUSSION, CONSIDERATION AND APPROVAL OF SETTLEMENT AND WRITTEN SETTLEMENT AGREEMENT, INCLUDING BRIEF APPEARANCE BY DR. GIARRUSSO AND/OR COUNSEL, IN NEVADA STATE BOARD OF MEDICAL EXAMINERS VS. KAREN A. GIARRUSSO, M.D., BOARD CASE NO. 04-10526-1

- Stephen D. Quinn, J.D., General Counsel

Ms. Bible asked the Board to approve the settlement agreement executed by the parties on May 21, 2004, with the following modifications and clarifications. The descriptive language concerning Dr. Giarrusso currently under the "License Verification" area on the Board's website will be removed and replaced with the following: "A complaint was filed on March 30, 2004. Pursuant to a settlement, the complaint was dismissed." The reference to Dr. Giarrusso and any action against her shall be deleted from the "Disciplinary Actions" page on the Board's website. The Board shall use every reasonable effort to advise the National Practitioner Databank that there is no longer any reportable disciplinary action against Dr. Giarrusso because the emergency suspension has been rescinded and the Databank should no longer contain a report of disciplinary action against Dr. Giarrusso. If it is not possible to obtain a removal of the disciplinary action from the Databank, the Board shall request the Databank to reflect that the action initiated was resolved by a settlement agreement that dismissed the complaint, rescinded the suspension and reinstated Dr. Giarrusso's license without conditions. Lastly, that the previous conditions imposed upon Dr. Giarrusso's license to participate in the diversion program have been complied with and therefore the conditions will be removed from her license.

Dr. Lubritz asked for one modification, and that is with respect to notification of the National Practitioner Databank. He would like to change the wording to, "the Board shall notify or advise." Mr. Sgro indicated they had no problem with that change.

Dr. Lubritz moved that the request previously described by Ms. Bible be incorporated into a motion. Dr. Held seconded the motion, and it passed, with the Chair abstaining from the vote.

Agenda Item 19 (CONTINUED)

APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS FOR LICENSURE

Dr. Lubritz moved to go into Closed Session to discuss the character and professional competence of applicants for licensure approval. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

CLOSED SESSION

19(b) Michael Thomas, M.D.

Upon returning to Open Session, Dr. Anwar moved that the Board approve Michael Thomas, M.D.'s application for licensure pending successful passage of a peer review. Dr. Lubritz seconded the motion, and it passed unanimously, with the Chair voting in favor.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Anwar seconded the motion, and it passed unanimously.

19(c) David Justis, M.D.

Upon returning to Open Session, Dr. Lubritz moved to grant David Justis, M.D.'s application for licensure. Dr. Anwar seconded the motion, and it carried unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Anwar seconded the motion, and it passed unanimously.

19(d) Karen Abbott, M.D.

Upon returning to Open Session, Dr. Baepler moved to grant Karen Abbott, M.D.'s application for licensure. Dr. Lubritz seconded the motion, and it passed, with the Chair opposed to the motion.

Dr. Anwar moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed unanimously.

19(e) Romeo Rosales, P.A.-C

Upon returning to Open Session, Dr. Anjum moved to grant Romeo Rosales, P.A.-C's application for licensure. Ms. Stoess seconded the motion, and it carried unanimously, with the Chair voting in favor of the motion.

Dr. Anwar moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed unanimously.

19(f) Alexander Kim, M.D.

Upon returning the Open Session, Dr. Held moved to grant Alexander Kim, M.D.'s application for licensure. Dr. Baepler seconded the motion, and it passed, with Dr. Lubritz abstaining from the vote and the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Anjum seconded the motion, and it carried unanimously.

19(g) Michael Huff, C.R.T.

Upon returning to Open Session, Dr. Anjum moved to grant Michael Huff, C.R.T.'s application for licensure. Ms. Stoess seconded the motion, and it carried unanimously, with the Chair voting in favor of the motion.

Dr. Anwar moved to return to Closed Session for the same purposes stated before. Dr. Anjum seconded the motion, and it passed unanimously.

19(h) Mary Kenny-Moynihan, M.D.

Upon returning to Open Session, Dr. Baepler moved that the Board decline to exercise its discretion to grant licensure by endorsement to Mary Kenny-Moynihan, M.D. Mrs. Kirch seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Dr. Baepler moved to grant Mary Kenny-Moynihan's application for licensure pending successful completion of a peer review. Mrs. Kirch seconded the motion, and it carried unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Anwar seconded the motion, and it passed unanimously.

19(i) Angela Adelman, M.D.

Upon returning to Open Session, Dr. Anjum moved that the Board approve Angela Adelman, M.D.'s application for licensure. Mrs. Stoess seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Mrs. Kirch moved to return to Closed Session for the same purposes stated before. Dr. Baepler seconded the motion, and it passed unanimously.

19(j) Stephen Viess, M.D.

Upon returning to Open Session, Dr. Anjum moved that the Board grant Stephen Viess, M.D.'s application for licensure. Dr. Anwar seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Dr. Anwar moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed unanimously.

19(k) Nicholas Vogelzang, M.D.

Upon returning to Open Session, Dr. Baepler advised Dr. Vogelzang that since he passed a peer review after applying for licensure by endorsement, the Board can issue him an unrestricted license rather than one by endorsement.

Dr. Vogelzang described his plans for the Nevada Cancer Institute, where he is the Director.

Dr. Baepler moved that the Board grant Nicholas Vogelzang, M.D.'s application for licensure. Dr. Anwar seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Dr. Anwar moved to return to Closed Session for the same purposes stated before. Dr. Lubritz seconded the motion, and it passed unanimously.

19(l) Maria David, M.D.

Upon returning to Open Session, Dr. Anwar moved to grant Maria David, M.D.'s application for licensure. Dr. Lubritz seconded the motion, and it passed, with Dr. Held opposed and the Chair voting in favor of the motion.

Dr. Anjum moved to return to Closed Session for the same purposes stated before. Dr. Baepler seconded the motion, and it passed unanimously.

19(m) Arjun Roy, M.D.

Upon returning the Open Session, Mrs. Kirch moved that the Board grant Arjun Roy, M.D.'s application for licensure. Dr. Anwar seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Agenda Item 17

- LEGAL REPORTS** - Stephen D. Quinn, J.D., General Counsel
Edward O. Cousineau, J.D., Deputy General Counsel
Charlotte M. Bible, J.D., Chief Deputy Attorney General
- Board Ordered Terms, Conditions and Probation Status
 - Board Litigation Status

Mr. Quinn told the Board he currently has six open litigation cases which all carry an insignificant threat of exposure to the Board.

Mr. Cousineau told the Board he has two cases set for hearing in the litigation phase, six or seven cases being prepared for presentation to the Investigative Committees, and within the next couple of weeks he will be filing formal complaints in three cases.

Ms. Bible told the Board she is not handling any litigation cases for the Board at this time. She invited the Board members to attend the Boards and Commissions training the Attorney General's Office will be presenting sometime in October. There will be a class in the north and one in the south, and she will send them an invitation.

Mr. Quinn stated the Mower case will be going to the Nevada Supreme Court for decision. It will be interesting to see how the Supreme Court will rule on the standard of proof to be applied in revocation cases.

Agenda Item 13

BOARD WEBSITE: WWW.MEDBOARD.NV.GOV REPORT

- Laurie L. Munson, Deputy Executive Secretary/Information Systems Administrator
 - Status of Addition of Licensees' Educational History to Licensee Search Module
 - Consideration of Additions to Website

Ms. Munson provided the Board members with a handout listing proposed additions to the website and outlined them for the Board.

Dr. Lubritz moved to add all proposed additions with the exception of proposed addition number 3, which was to add a short bio and photo of each Board member. Mrs. Kirch seconded the motion, and it passed unanimously.

Agenda Item 14 (CONTINUED)

REPORTS

- Diversion Program - *Quarterly Report* - Peter Mansky, M.D., Medical Director
- Physician Assistant Advisory Committee - John B. Lanzillotta, P.A.-C, and Dan Hickey, P.A.-C, Advisory Committee Members
- Practitioner of Respiratory Care Advisory Committee - Steven E. Kessinger, C.R.T., Advisory Committee Member
- Investigative Committees - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer, Chairperson
Joel N. Lubritz, M.D., Chairperson
 - Consideration of Cases Recommended for Closure by the Committees
 - Status of Investigative Case Load
- Nevada State Medical Association Liaison Report - Stephen K. Montoya, M.D.
- Secretary-Treasurer - Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
 - Consideration of Approval of Final Budget for Fiscal Year 2004 – 2005
 - Status of Finances

**INVESTIGATIVE COMMITTEES – Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer,
Chairperson**

Joel N. Lubritz, M.D., Chairperson

- Consideration of Cases Recommended for Closure by the Committees
- Status of Investigative Case Load

- Consideration of Cases Recommended for Closure by Committees

Dr. Lubritz moved to approve for closure the cases recommended by the Investigative Committees. Mrs. Kirch seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Agenda Item 16

EXECUTIVE STAFF REPORTS

- Drennan A. Clark, J.D., Executive Secretary/Special Counsel
 - Consideration of Request for Staff Attendance at Educational Meetings
 - Status of Staff Additions and Board Office Space
 - Consideration of Approval of Revised Salary and Benefits Policy and Staff Appraisal Form, and New Fraud Policy
 - Informational Items

- Consideration of Request for Staff Attendance at Educational Meetings

Mr. Clark requested authority for Ms. Munson and he to attend the Administrators in Medicine (AIM) 2004 Western Regional meeting in Santa Fe, New Mexico, on September 23-24, 2004; and for Ms. Munson, Mr. Quinn, Mr. Cousineau, Mr. Cooper, Ms. Krotke and he to attend one of the FSMB two-day workshops on Promoting Balance and Consistency in the Regulatory Oversight of Pain Care. He suggested that any Board members wishing to attend should do so as well. He also advised the Board of the Citizen Advisory Committee program in Florida in October, but was not requesting authority to send any staff members.

Dr. Baepler moved to authorize attendance at the aforementioned educational meetings as discussed. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Consideration of Approval of Revised Salary and Benefits Policy and Staff Appraisal Form, and New Fraud Policy

Mr. Clark summarized the revised Salary and Benefits Policy and stated the staff performance appraisals would be completed by the end of every May and presented to the Internal Affairs Committee for review and the Internal Affairs Committee would make recommendations for salary raises to the remainder of the Board at the June Board meeting.

Mrs. Kirch moved to approve the revised Salary and Benefits Policy and Staff Appraisal Form. Dr. Held seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Mr. Clark summarized the new Fraud Policy, and told the Board it was drafted in response to a recommendation by the Board's auditors that the Board have such a policy in place.

Mrs. Kirch moved to approve the new Fraud Policy. Dr. Anjum seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

- Status of Staff Additions and Board Office Space

Mr. Clark told the Board the Investigations Division has moved to the first floor and one of the former Investigator's offices will be utilized for Board Officers to use when in town. Mr. Cousineau's current office will be converted to a lounge for Board members where they will be able to meet, make phone calls or relax whenever they are in the office.

Mr. Clark then told the Board Kasey Miller has resigned and he would like to hire an administrative support assistant with a salary not to exceed \$26,000, who can assist the Licensing Division with filing, copying, and other duties until Ms. Krotke hires a replacement for Ms. Miller, and afterwards the administrative support assistant can assist all divisions with their work.

Mrs. Kirch moved to authorize Mr. Clark to hire a floater administrative position. Dr. Baepler seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 18

LICENSURE RATIFICATION

- Ratification of Licenses Issued, and Reinstatements of Licensure and Changes of Licensure Status Approved Since the June 4 & 5, 2004 Board Meeting

Dr. Baepler moved to ratify the licenses issued, and reinstatements of licensure and changes of licensure status approved, since the June 4 & 5, 2004 Board meeting. Mrs. Kirch seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Agenda Item 10 (CONTINUED)

DISCUSSION AND APPROVAL OF LEGISLATIVE INITIATIVES FOR 2005 LEGISLATIVE SESSION AND DISCUSSION AND APPROVAL OF RECOMMENDATIONS OF FSMB AUDIT REQUIRING LEGISLATION

- Drennan A. Clark, J.D., Executive Secretary/Special Counsel

Discussion ensued concerning the meaning of the tenth initiative.

Dr. Held moved that the Board not go forward with the tenth initiative. Dr. Lubritz seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

With respect to the eleventh initiative, Mr. Quinn stated that NAC 630.190 deals with false advertising, and it is not false advertising for an individual to say that he or she is certified by a particular organization that is not recognized by the listed entities if he or she has a certificate from that organization.

Discussion ensued concerning what constitutes acceptable certification.

It was the consensus of the Board to not move forward with the eleventh initiative.

Dr. Held stated the Board should go forward with the twelfth initiative, and it was the consensus of the Board to do so.

Mr. Clark told the Board that the thirteenth initiative was a recommendation of the Federation's audit team, but he doesn't think it is necessary.

It was the consensus of the Board to not move forward with the thirteenth initiative.

Mr. Clark stated the fifteenth initiative contains recommendations for clean-up language in existing statutes.

It was the consensus of the Board to go forward with the first two recommendations, and not go forward with the third.

Ms. Krotke stated the fourth recommendation was made by her and was due to the fact that the statute requires this from physician assistants, but not from physicians.

Mrs. Kirch suggested an appearance before the Board rather than an examination.

Dr. Montoya stated policy would be a better way to handle this than through legislation.

Ms. Bible stated if it has general applicability, it should be by regulation.

Dr. Baepler suggested the language could be that if a physician has not practiced for a year or more, he or she will be required to appear before the Board.

Mr. Clark stated that the fifth recommendation was proposed by Richard Legarza because he thought it was unfair that anyone who had previously acted as a hearing officer could not be hired by the Board in any capacity for two years.

Mr. Quinn stated the intent could have been to ensure the integrity of hearing officers.

The consensus of the Board was not to go forward with the fifth recommendation.

Mr. Clark stated that the sixth and seventh recommendations are being proposed as a result of the last Board meeting where two very good applicants who wanted administrative licenses and would not be practicing clinical medicine were unable to receive a license without restrictions due to the current language of the statutes.

It was the consensus of the Board to move forward with this recommendation.

RECESS

Dr. Montoya recessed the meeting at 6:35 p.m.

SATURDAY, SEPTEMBER 11, 2004

Board Members Present

Stephen K. Montoya, M.D., President
Joel N. Lubritz, M.D., Vice President
Donald H. Baepler, Ph.D., D.Sc., Secretary-Treasurer
Marlene J. Kirch
Sohail U. Anjum, M.D.
Javaid Anwar, M.D.
Charles N. Held, M.D.
Jean Stoess, M.A.

Board Members Absent

Cheryl A. Hug-English, M.D.

Staff Present

Drennan A. Clark, J.D., Executive Secretary/Special Counsel
Laurie L. Munson, Deputy Executive Secretary/
Information Systems Administrator/Chief of Administration
Stephen D. Quinn, General Counsel
Edward O. Cousineau, Deputy General Counsel
Lynnette L. Krotke, Chief of Licensing
Trent S. Hiatt, Investigator (present in Las Vegas)

Also Present

Charlotte M. Bible, J.D., Chief Deputy Attorney General

RECONVENE

Stephen K. Montoya, M.D., President, reconvened the meeting at 8:30 a.m.

Agenda Item 19 **(CONTINUED)**

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS
FOR LICENSURE**

Mrs. Kirch moved to go into Closed Session to discuss the character and professional competence of applicants for licensure approval. Dr. Anwar seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

CLOSED SESSION

19(g) Terry Montague, M.D.

Upon returning to Open Session, Dr. Baepler moved that the Board decline to exercise its discretion to grant licensure by endorsement to Terry Montague, M.D. Dr. Lubritz seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Dr. Baepler moved to grant Terry Montague, M.D.'s application for licensure pending successful completion of a peer review. Dr. Anwar seconded the motion, and it carried unanimously, with the Chair voting in favor of the motion.

Dr. Anwar moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed unanimously.

19(o) Amit Garg, M.D.

Upon returning to Open Session, Mrs. Kirch moved to grant Amit Garg, M.D.'s application for licensure. Dr. Anjum seconded the motion, and it carried unanimously, with the Chair voting in favor of the motion.

Dr. Montoya moved to return to Closed Session for the same purposes stated before. Dr. Jones seconded the motion, and it passed unanimously.

19(n) Francis Yamazaki, M.D.

Upon returning to Open Session, Dr. Held moved that the Board decline to exercise its discretion to grant licensure by endorsement to Francis Yamazaki, M.D. Mrs. Kirch seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Dr. Held moved to grant Francis Yamazaki, M.D.'s application for licensure pending successful completion of a peer review. Mrs. Kirch seconded the motion, and it carried unanimously, with the Chair voting in favor of the motion.

Agenda Item 21

PUBLIC COMMENT

James S. Tate, M.D. commented on the proposed legislative initiatives and said he would provide the Board with a copy of the statement he read.

Agenda Item 19 (CONTINUED)

**APPEARANCES FOR CONSIDERATION OF ACCEPTANCE OF APPLICATIONS
FOR LICENSURE**

Ms. Stoess moved to go into Closed Session to discuss the character and professional competence of applicants for licensure approval. Dr. Anwar seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

CLOSED SESSION

19(p) Hung-Shing Tsang, M.D.

Upon returning to Open Session, Dr. Held moved that the Board approve Hung-Shing Tsang, M.D.'s application for licensure. Dr. Lubritz seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Dr. Anwar moved to return to Closed Session for the same purposes stated before. Dr. Lubritz seconded the motion, and it passed unanimously.

19(r) Edwin Flower, M.D.

Upon returning to Open Session, Dr. Anjum moved to approve Edwin Flower, M.D.'s application for limited licensure for residency. Ms. Stoess seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Dr. Baepler moved to return to Closed Session for the same purposes stated before. Mrs. Kirch seconded the motion, and it passed unanimously.

19(s) Kahmien LaRusch, M.D.

Upon returning to Open Session, Ms. Stoess moved to approve Kahmien LaRusch, M.D.'s application for limited licensure for residency. Dr. Lubritz seconded the motion, and the motion carried unanimously, with the Chair voting in favor of the motion.

Dr. Montoya expressed concern with the marginal qualifications of some of the residents who are applying for licensure and the psychiatry training program specifically.

Dr. Brown described the requirements for the psychiatry program at the university.

Discussion ensued.

Agenda Item 21 **(CONTINUED)**
PUBLIC COMMENT

Weldon Havins, M.D. commended the Board's legal staff and Ms. Bible for their tenacity and integrity.

Agenda Item 20
MATTERS FOR FUTURE AGENDA

Mr. Clark stated the December Board meeting will be in Las Vegas and it is anticipated there will be a large number of appearances so staff will attempt to keep the administrative agenda short.

ADJOURNMENT

Motion by Dr. Anjum to adjourn. Dr. Anwar seconded the motion, and it passed unanimously, with the Chair voting in favor of the motion.

Dr. Montoya adjourned the meeting at 11:05 a.m.